THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 8578 OF 1998

DATED: 6.6.2007

Between:

The Leprosy Mission, rep. By its Superintendent

… Petitioner

and

The Chairman, Industrial Tribunal-cum-Labour Court and another

….Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.8578 OF 1998

ORAL ORDER:

The writ petitioner is the employer, which suffered an award dated.11-12-1997 of the Industrial Tribunal-cum-Labour Court, Visakhapatnam in I.D.No.126 of 1994. The 2nd respondent herein, who was a workman of the petitioner, was working as a technician at its Mission Hospital, Salur, Vizianagarm District.

Alleging acts of indiscipline the 2nd respondent was proceeded against in a domestic inquiry. A retired District and Sessions Judge was appointed as an Enquiry Officer for the purpose. The management framed ten (10) charges. Eventually the Enquiry Officer submitted his report dated.10-04-1992. Consequent to and on the basis of this report, the management by the order dated.03-06-1992 imposed on the 2nd respondent the penalty of removal from service.

Assailing the order of removal the petitioner preferred a claim before the Industrial Tribunal-cum-Labour Court, Visakhapatnam in I.D.No.126 of 1994 under Section.2-A(2) of the Industrial Disputes Act,1947(for short "the Act"). By the order impugned, the Labour Court concluded that the order of removal based on the findings in the domestic inquiry is not sustainable, set aside the removal order and directed reinstatement of the 2nd respondent with 50% back wages and continuity of service and also awarded costs in an

amount of Rs.500/-.

It is stated by the learned counsel for the petitioner at the hearing of the writ petition that pursuant to the interim order of this Court granting stay of payment of back wages to the 2nd respondent but not of the reinstatement, the 2nd respondent was reinstated into duty but thereafter resigned the service of the petitioner with effect from 12-08-1988 and that he is currently not in the service of the petitioner.

In the order impugned the Labour Court found that the ten charges framed against the 2nd respondent were wholly vague and unspecific. No overt acts have been attributed to the 2nd respondent which are the basis for the laconic species of the charges framed against the 2nd respondent. This Court is inclined to agree with the conclusions of the Labour Court. To illustrate the point, the following are the some of the charges framed:

(a) Wilful insubordination, disobedience in association with others of the lawful orders given by the superiors (Charge No.1)

(b) Breach of the Rules and Regulations of the Leprosy Mission in India (Charge No.3)

(c) Act of subversive of discipline (Charge No.4)

(d) Refusal to comply with communication from the Head of the Department (Charge No.9).

No statement of imputations accompanied the charge memo, thus denying the 2nd respondent reasonable opportunity to respond to the allegations against him, is what the Industrial Tribunal –cum- Labour Court found.

Even the inquiry report was found fault with by the Labour Court. There was no discussion of the evidence. In respect of charge No.2 relating to strike of work and inciting

others to strike work the Inquiry Report recorded:

> "Since the delinquent did not withdraw from the premises and go to salur to attend his normal duties after all the scheduled programmes are cancelled defying the oral orders of his superior, amounts to strike of work. I find that this charge is also proved against the delinquent."

In respect of charge No.4, which is an allegation relating to acts of subversion of discipline the Inquiry Report recorded as under:

> "The act of the delinquent and others behaving in a and ritious manner as detailed in the evidence of departmental witnesses of record, and confining wrongfully restrainment of and others amounts to acts of subversion of discipline I find that this Charge also proved against the delinquent."

In respect of Charge No.6 relating to squatting with a view to intimidating, coercing and threatening the officials of the Mission, the Inquiry Report records only this:

> " On the material available on record, I find that this charge is also proved against the delinquent"

Another reason recorded by the Labour Court is that in respect of substantially identical allegations as in the domestic inquiry, the 2nd respondent was prosecuted and the prosecution ended in acquittal. This by itself may not be a bar for the conduct of domestic inquiry. However the conclusions of the Labour Court that the charges are vague and the Inquiry report records conclusions without any rational analysis cannot be faulted. The ten (10) charges framed against the 2nd respondent are clearly vague and deny a reasonable opportunity to the delinquent-employee. There is also no

discussion in respect of many charges except recording of mere conclusions.

On the aforesaid analysis this Court discerns no infirmity in the award of the Labour Court. There are no merits. This writ petition is accordingly dismissed. There shall however be no order as to costs.

GODA RAGHURAM,J

6th JUNE,2007
***TSNR**